

## REMARKS

This is in response to the Office Action dated August 3, 2004.

Claims 1-3, 6-8, 10-13, and 15-18 are pending in the application. Claims 4, 5, 9, 14 and 19 have been cancelled.

Original Claims 1, 4, 7, 13, 15 and 18 stand rejected on various substantive grounds in view of Hawkins *et al.* The remaining claims are objected to as being dependent on a rejected base claim.

The Declaration filed by Applicant on 5-17-04, in which the Applicant attempted to swear behind the Hawkins *et al.* reference, has been deemed not acceptable by the Examiner. The Applicant respectfully traverses this conclusion and maintains that the Declaration, as presented, set forth sufficient facts to overcome the prior rejections and establish timely diligence in reducing the invention to practice prior to Hawkins *et al.* Notwithstanding, in view of the present amendments to the claims, the issue of Applicant's diligence in reducing the invention to practice is now moot. However, should the need to establish Applicant's priority date arise in the future for any reason, such as during a re-examination proceeding or in litigation, Applicant reserves the right to establish its continuing diligence between conception and constructive reduction to practice so as to overcome Hawkins *et al.* and any other intervening references.

The amended independent Claims 1, 7, 13, and 18 are here presented in condition for allowance, based on Applicant's compliance with the Examiner's indications that certain of the respective depending claims would be allowable if rewritten into independent form.

Specifically:

- Claim 1 now includes all of the limitations of prior dependent Claims 4 and 5.
- Claim 7 now includes all of the limitations of prior dependent Claim 9.
- Claim 13 now includes all of the limitations of prior dependent Claim 14.
- Claim 18 now includes all of the limitations of prior dependent Claim 19.

The Office Action indicates a 35 U.S.C. 112, second paragraph, issue with respect to Claims 14, 16 and 17. The Applicant has here amended these claims to address all perceived issues of indefiniteness. If any such issues remain, the Applicant requests the Examiner contact its undersigned representative to resolve the issues so that the application can proceed to allowance.

In view of the amendments herein, it is respectfully submitted that the remaining claims are now in condition for allowance. Reconsideration of this application, as amended, is respectfully requested.

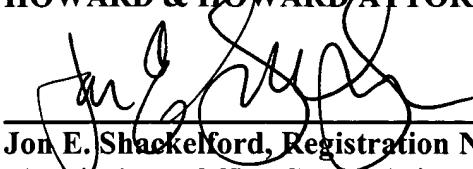
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Respectfully submitted,

**HOWARD & HOWARD ATTORNEYS, P.C.**

Nov. 2, 2004  
Date

  
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